

CITY COUNCIL MINUTES

March 12, 2012

REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, March 12, 2012 at 6:00 p.m. with Mayor Nesbitt presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: William W. Kirby, Kevin Hanley, J. M. "Mike" Holmes, Bridget Powers, Keith Nesbitt

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, and Police Chief John Ruffcorn.

City Attorney Michael Colantuono requested an item be added to the closed session agenda titled "Initiation of Litigation".

MOTION: Holmes/ Hanley/ Unanimously approved by voice

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6

MOTION: Holmes/ Hanley/ Unanimously approved by voice

1. **Anticipated Litigation:**
(G.C. 54956.9(b))

A point has been reached where, in the opinion of the City Council/Agency on the advice of its legal counsel, based on the below-described existing facts and circumstances, there is a significant exposure to litigation against the City Council/Agency.

Receipt of written communication from Karl Olson, attorney for Victoria Connolly, threatening litigation (copy available for public inspection in City Clerk's office). G.C. 54956.9b(3)(C)

2. **Initiation of Litigation**
(G.C. 54956.9(c))

Number of potential cases: 1

3. **Conference with Labor Negotiators:**
(G.C. 54957.6)

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: Fire

REPORT OUT OF CLOSED SESSION

The Council reported that it had authorized the City Attorney to file a lawsuit but that the details cannot be disclosed until the suit is filed and served.

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

City Manager Robert Richardson requested items 2 and 12 be moved to the next City Council meeting. The remainder of the agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

Council Member Holmes requested item 5 be removed for further discussion.

1. **Minutes**

By **MOTION** approve City Council Minutes of 01/23/2012, 02/01/2012, 02/23/2012, and 02/27/2012.

2. **Results of Annual Audit – Fiscal Year 2010-11**

Removed from agenda

3. **Warrants**

By **RESOLUTION 12-14**, ratify and approve payment of warrants 78824 through 79432 totaling \$2,695,573.11.

4. **Appointment of Economic Development Commissioners**

By **RESOLUTION 12-15**, approve the recommended appointments to the Economic Development Commission ("EDC").

5. **Sale of Controlled Firearms, In Lieu of Destruction**

Removed from consent calendar.

***** End of Consent Calendar *****

By **MOTION**, approve the consent calendar consisting of items 1, 3 and 4.
MOTION: Hanley/ Powers/ Approved 5:0 (Council Member Powers abstained from the 2/27/2012 minutes)

5a. **Sale of Controlled Firearms, In Lieu of Destruction**

Council Member Holmes asked about the disposal or sale approval process.

Police Chief Ruffcorn said the Council will be notified in advance before firearms are sold or traded.

Council Member Kirby spoke about the historical significance of some styles of weapons.

By **RESOLUTION 12-16**, authorize the Police Department to sell or trade department controlled firearms and firearm related accessories that have been confiscated or previously purchased in accordance with state and federal laws.

MOTION: Holmes/ Powers/ Approved 5:0

6. **Public Comment**

Council Member Nesbitt spoke in memory of Skip Outman who recently passed away after a battle with cancer. He said Mr. Outman served as a board member on Placer Land Trust, was an avid runner and watercolor painter who will be deeply missed by the community.

REPORTS

7. **Auburn Fire 2011 Incident Response Report**

Fire Chief Mark D'Ambrogi presented this item (presentation available with the staff report). He reviewed fire response, emergency incidents, response times and information, injuries and mutual aid, grant review, volunteer program and training, call costs, emergency preparedness and the Fire Department focus.

Council Member questions followed regarding: (1) training exercises, (2) EMS/Rescue category: residence vs. public area, and (3) fleet needs on grant applications.

8. **City Council Committee Reports**

Council Member Powers reported that the Auburn Airport Business Park Association is holding their next meeting March 26th. She said the 3 Associations at the Airport will be coming to Council in the near future with their responses regarding the monument sign proposed at the airport. She reported that October 5, 2012 is the date for the Industry 2012 event.

Council Member Holmes reported a public Americans with Disabilities Act ("ADA") compliance workshop has been scheduled at the Rocklin Sunset Center on March 26th. He reported on SEDCorp's latest developments in regards to Broadband and Buxton Software. He reported on the lack of a historical register for the City of Auburn; he said he would like to see staff take action on this item. He reported that today, the Auburn Grammar School was listed on the National Register of Historic Places.

Council Member Kirby reported on behalf of the Placer Nevada Co Wastewater Authority regarding regional sewer. He also sadly noted Dr. Norman Kies, an Urologist in Auburn for over 20 years, recently passed away.

Mayor Nesbitt reported on behalf of the Auburn Economic Development Commission and the recently created recruitment videos. He reported on the progress of the Auburn App being created in conjunction with the Auburn Chamber of Commerce.

COUNCIL BUSINESS

9. Regional Sewer Project Update

Public Works Director Bernie Schroeder presented this item. She said January 23, 2012 the Council passed a resolution directed staff to engage in any necessary studies or participation with the Placer Nevada Wastewater Authority Technical Advisory Committee to come up with information to allow the County to consider possible contribution from Middlefork Funds towards a subsidiary for the rate payers of Auburn. She said after that resolution was passed, the Placer County Board of Supervisors met regarding this consideration and the item did not proceed to a vote. She said the next meeting of the Placer County Board of Supervisors meeting, March 13th, is slated to be the final decision on a regional sewer. She said the regional sewer project cost for Auburn with Placer County participating is \$28.7 million. She indicated if Auburn chooses to treat wastewater locally, two efforts will have to begin: pre-design on the oxidation ditch and the request for proposals for operation of the treatment plant.

Council Member Kirby asked about timing and costs of the efforts to be completed on the current local wastewater treatment plan.

Council Member Hanley asked about the revised February 2012 Design and Environmental Review Scope of Work, the Placer County SMD1 plant, and the make up water in Auburn Ravine.

He said he would like to be able to make an informed decision based on the proposed rates for Auburn having all the assumptions worked into them.

Council Member Holmes asked about operation of Auburn's existing plant with a regional plan.

Mayor Nesbitt asked about future mandate and compliance issues in regards to make up water.

Dan Rich, NexGen Utility Management, addressed the issue of make up water. He said it is a possibility that upgrades would be still be necessary to the current plant with a regional solution.

Mayor Nesbitt asked about Middlefork Funds and Auburn's share.

Council Member Powers asked about room to negotiate Lincoln's offer.

Council Member Hanley asked about the governance structure.

Bernie Schroeder said there is a willingness on Lincoln's part to look at all governance options.

Council Member Kirby, as Chair of the Placer Nevada County Wastewater Authority (PNWA), spoke about the actions of the Placer County Board of Supervisors (BOS) in regards to the Middlefork Funds, capital costs covered by grant by BOS, and how a governance plan would work. He said without moving forward with a regional plan, rates could go up exponentially. He addressed make up water, future responsibilities, and advantages of a regional solution. He said there will be unknowns but the PNWA voted unanimously that this is the best way to save money for the ratepayers.

Bruce Burnworth, City Engineer with the City of Lincoln, discussed "other means" in regards to make up water in the proposal, additional studies completed by Placer County, and the low probability of future operation of the Auburn Wastewater plant.

Council Member Hanley asked Mr. Burnworth about the possibility of a decrease in hydroelectric revenue for the County and Placer County Water Agency as a result of the decreased flow in Auburn Ravine.

Spencer Short, Mayor of the City of Lincoln, addressed the issue of the "unknown" when it comes to future regulations. He said the goal of the regional project is to minimize treatment costs for all parties to the agreement. He said he would like all the parties in the agreement be involved in decisions when it comes to a governance structure.

Bob Snyder, resident of Auburn, spoke about the required 1.9 CFS stream flow and the lack of its effect on the hydroelectric system.

Cheryl Maki, resident of Auburn, spoke about the issue being a moving target and addressed unpermitted plants not being susceptible to minimum mandate fees.

Rich Johnson, resident of Auburn, said a regional plant is inevitable for Auburn. He said he is in favor of the regional sewer project.

Richard Sanborn, resident of Auburn, he said the details are not worked out for this project. He said there is not enough support with the BOS to supply Middlefork funds to Auburn. He spoke in opposition of the project at this time.

Sunday Kennedy, resident of Placer County, spoke about her sewer tax rate and the effect on low income and disabled households.

Council Member Powers stressed that her main concern is to keep sewer rates down for ratepayers. She said the residents she has spoken with are in favor of going regional if rates are not increased. She spoke in favor of reconfirming with Placer County that if Auburn is interested, funds can be secured.

Council Member Holmes spoke about the Board of Supervisors actions, the Middlefork Funds, and the importance of a regional solution.

Council Member Kirby said a rate increase is inevitable, but the increase will be less with a regional solution. He spoke of rates for residents on fixed incomes, Board of Supervisors discussions, and the Placer Nevada Wastewater Authority.

Council Member Hanley addressed stabilizing rates and the actions by the Board of Supervisors. He said he is in favor of passing an additional resolution urging the Board of Supervisors to commit sufficient Middlefork funds to stabilize the Auburn rates and to address any unforeseen cost increases in the capital construction of the pipeline and in the operation of the Auburn Treatment plant itself.

Mayor Nesbitt addressed the governance issue, the “unknowns”, and his disappointment in the Board of Supervisors.

By **RESOLUTION 12-17**, The Auburn City Council hereby urges The Board of Supervisors to commit sufficient Middlefork Project Funds to stabilize Auburn sewer rates and to address any unforeseen cost increases in capitol construction of the regional pipeline including the potential full operation of the Auburn Wastewater Treatment Plant.

MOTION: Hanley/ Powers/ Approved 5:0

10. **Old Town Business Association Status**

City Manager Robert Richardson presented this item. He reviewed the history and purpose of the Old Town Business Improvement District (BID).

Mayor Nesbitt and Council Member Kirby said they brought this item forward as an open forum for ideas and concerns.

Council Member questions followed regarding: (1) state law regarding BIDs, (2) the City Council's involvement in BIDs, (3) compliance, collections, and enforcement, (4) how BIDs function and the City's involvement, and (5) notification of BID fees.

Gary Moffat, business owner in Old Town Auburn, said he notified Council and City Management in August of 2011 that he would no longer be paying his BID fees. He said he did not receive any responses. He said he was sent to collections and was notified there were 300 other Auburn businesses that had not paid their BID fees. He said the benefits of a BID differ for different types of businesses. He said participation in the BID should be voluntary not mandatory. He said it does not promote the common business interest in Old Town. He said the BID structure is broken and he will not pay it. Council Member questions to Mr. Moffat followed.

Brian Ford, business owner in Old Town Auburn, said he opposes the way the BID funds are currently being used. He said there are two completely different needs between retailers and restaurants in Old Town. He said the BID program needs to be reassessed. He said participation should not be mandatory, but voluntary. Council Member questions to Mr. Ford followed.

Linda Robinson, business owner in Old Town Auburn, spoke about the history of the BID in Old Town. She explained how different businesses receive different assessments and how assessment fees are spent. She explained as a member of the Old Town Business Association (“OTBA”) Board, how the meetings are conducted. Council Member questions to

Mrs. Robinson followed. She said she requested the OTBA board review all BID documents to possibly re-categorize businesses that don't benefit from "core activities" put on by the BID to be reassessed and reduced.

Council recessed for 5 minutes

Gary Moffat spoke about outdated events in Old Town and the need to market Old Town in a more modern way. He spoke about the negative impact of the events on some businesses in Old Town.

Lisa Ford, business owner in Old Town Auburn, said she doesn't agree with how the OTBA BID fees are spent. She said she has had food vendors located in front of her restaurant during events. She said the Downtown Business Association manages to hold events without hampering the businesses involved. She said the fees would be palatable if she had any say in how they are spent. She said they should be spent in a way that benefits the whole community.

Marilyn Ijams, business owner in Old Town Auburn, said she is disappointed that this got to the City Council level without it being discussed at an OTBA meeting. She said as a board member she would be glad to listen to any concerns or ideas from members. She said the membership should be able to come up with a plan to work together to benefit Old Town.

Kathy Arnold, business owner in Old Town Auburn, spoke about restaurant business during events. She said she would like to see more of the membership at the general meetings. She said she feels this could be worked out within the membership.

Bob Snyder, resident of Auburn, spoke about the OTBA meetings and organization structure. He explained different benefits of the BID for different types of businesses within the community.

Linda Robinson, addressed things that have been said in public comment and creating a better partnership within Old Town.

Council Member comments followed regarding: (1) options for businesses to "opt-out", (2) reduction of fees, (3) getting restaurants more involved, (4) restructure of BID, (5) improvements in Old Town over the last few decades, (6) attendance at OTBA meetings, (7) representatives on the OTBA Board, and (8) fair and balanced OTBA Board structure.

Council Member Hanley motioned to direct staff to bring this item back to the agenda the second week in May to have a discussion or action on the structure of the OTBA.

Council Member comments followed regarding the Council not getting involved at that level.

City Manager Robert Richardson said there is a strict timeline due to noticing requirements that must be completed before approval of the assessment fees.

Council Member Hanley withdrew his motion. He said the Council reviews the BID assessment fees in May and that is when the conversation can take place.

Council Member Kirby asked about the by laws that being sent out to the membership soon. He also asked the procedure to dissolve the BID. He said the issue should come back as a discussion item in May addressing representation and taxation.

Council Member Nesbitt moved that at the first meeting in May, the City Attorney will report on the legality of the termination or the opt-out clause, there will be discussion/action regarding a reduction in fees and broader representation of diversified businesses across the OTBA board.

MOTION: Nesbitt/ Kirby/ Approved 5:0

11. **School Park Preserve Community Garden**

Community Development Will Wong presented this item. He said all the work will be done by volunteers and will have no fiscal impact.

Council Members asked if a building permit would be necessary and the level of the High School's commitment.

Patty Schifferle, School Park Preserve Development Committee and Katy Fries, representing the Placer High School Teachers detailed the project.

By **MOTION**, approve the School Park Community Garden plans and details per the exhibits in the staff report.

MOTION: Holmes/ Powers/ Approved 5:0

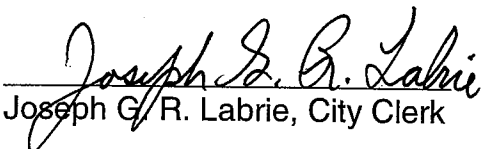
12. **Financial Status Report – Fiscal Year 2011-12**

Removed from agenda.

ADJOURNMENT

Mayor Nesbitt adjourned the meeting, without objection, at 10:04 p.m. in memory of Dr. Norman Kies and Skip Outman.


Keith Nesbitt, Mayor


Joseph G. R. Labrie, City Clerk